

Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
Toll Free Service Access Codes) CC Docket No. 95-155

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COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

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Table of Contents

	Page
Summary	ii
I. Introduction	1
II. The FCC Should Not Mandate a Specific Network Architecture for the Deployment of Toll Free Services	2
III. Toll Free Access Codes Should be Assigned on a First-Come, First-Served Basis	4
IV. An Industry Forum is Preferable to Increased Commission Control to Oversee RespOrgs	6
V. Escrow Accounts Would Disadvantage Small Carriers	7
VI. The Commission Should Not Impose Reduced Time Intervals to Eliminate Lag Time Until the Industry Has an Opportunity to Study Issues and Make Recommendations	8
VII. Personal Identification Numbers (PINs) Should Be the Responsibility of the RespOrgs	9
VIII. The Toll Free Reservation and Assignment Process Should Be Modified to Allow a 60 Second Lockout Period, Reasonable Reservation Limits, Not a 45 Day Advance Reservation Policy	10
IX. Implementation Plan for the Next Toll Free Code Beyond 888 Should Be a Non-Event	11
X. Right of First Refusal	12
XI. Toll Free Directory Assistance	12
XII. Public Awareness	14
XIII. Tariffing Issues	15
XIV. Conclusion	17

Summary

In this proceeding, the Commission makes numerous important issues regarding toll free service access codes. SNET supports the Commission view that these important issues require resolution in order to insure the efficient use of toll free numbers, the fair and equitable reservation of toll free numbers, the smooth transition to a new toll free code, the prevention of warehousing of numbers and the treatment of vanity numbers. SNET also strongly supports the Commission's proposal from assigning 888-555-1212 until a decision is made whether to grant SNET's Petition proposing a regulatory structure to facilitate competition in the toll free directory assistance market.

In these comments, SNET recommends that the Commission should not mandate the upgrade of all network switches by February 1997 to support all reserved toll free codes, and should not mandate a specific network architecture for the deployment of toll free services. Commission mandates in these areas would have the effect of forcing uneconomic network upgrades without corresponding subscriber benefits. Temporary trunk routing inefficiencies incurred by interexchange carriers are not so significant as to require LECs to replace switching infrastructure prematurely.

SNET supports the reservation and assignment of toll free numbers on a first-come, first-served basis without preference to existing 800 toll free users or large RespOrgs. Allowing the reservation in new codes of vanity numbers used by current 800 service providers utilizes a scarce resource inefficiently by simply spreading existing traffic over more toll free numbers. Therefore, customers should not automatically be allowed to duplicate existing toll free numbers.

The Commission should task the appropriate industry forums to develop solutions to current toll free number assignment problems, including the development of guidelines for managing the number assignment process, development of statistical reporting for monitoring purposes and recommendations for incurring the smooth transition to the 888 relief code.

Finally, the Commission can take steps now to promote effective competition in the 800 directory assistance market by prohibiting Bellcore from assigning 888-555-1212 until after the agency decides whether to grant SNET's Petition in DA 95-1062.

In the Matter of)
Toll Free Service Access Codes) CC Docket No. 95-155

The Southern New England Telephone Company (SNET), pursuant to the Federal Communications Commission's (Commission's) Notice of Proposed Rulemaking (NPRM) released October 5, 1995, hereby files its Comments in the above-referenced docket.¹

On October 5, 1995, the Commission released a Notice of Proposed Rulemaking seeking comments on a number of issues concerning the transition to an expanded set of toll free service access codes. SNET's Comments propose that the reservation of numbers in all toll free access codes be on a first-come, first-served basis, that the Commission should allow the industry to develop appropriate solutions and that a regulatory structure to

¹ In the Matter of Toll Free Service Access Codes, Notice of Proposed Rulemaking (NPRM), FCC No. 95-419, CC Docket No. 95-155, released October 5, 1995.

facilitate competition in the toll free call directory assistance market be established.

II. The FCC Should Not Mandate A Specific Network Architecture for the Deployment of Toll Free Services

The Commission should proceed cautiously with its tentative conclusion "that all network switches in the United States should have, at a minimum, the software needed to support all toll free codes reserved by the industry in January 1995 installed by February 1997."² The Commission should allow each individual company to determine the appropriate means for routing toll free calls.

SNET has not yet deployed service signaling point (SSP) capabilities in its end offices since the economics do not presently support such a deployment. In addition, a number of technical hurdles must be overcome before end office SSP deployment could be accomplished. For example, AT&T's software enhancements to Intelligent Network 800 SSP functionality currently only supports 888 and 877 (in addition to 800). Thus, additional AIN SSP functionality will be required in switches to support the introduction of the 866, 855, 844, 833 and 822 codes. Several of SNET's largest end office switches are AT&T 1AESS switches that, unfortunately, have very limited AIN SSP

² See NPRM, p. 20.

functionality and are unable to directly process the growth toll free codes.

Given the technical and economic issues involved, the Commission should not deny use of tandem access architectures to support traffic from switches that are not reasonably capable of processing toll free calls. Tandem access provides efficiencies by facilitating the aggregating of traffic from smaller end offices where some interexchange carriers (IXCs) have no direct interconnection.

Although SNET agrees with the Commission that there may be some temporary inefficiencies for the IXCs if LECs use different network topologies for the existing 800 code and the new 888 code, requiring LECs to deploy the technology to process all toll free codes in every end office switch by February, 1997 to eliminate these inefficiencies is unreasonable and unfairly burdens LECs to replace infrastructure prematurely. Such an order would also significantly weaken a LEC's negotiating position with suppliers for replacement switches.

SNET currently has 800 SSP functionality deployed in five access tandem switches where all IXC 800 traffic is delivered to respective IXC points of presence. Our current plans for 800 and subsequent toll free relief codes call for the continued use of these SSP capabilities at these same access tandem switches. The Commission should not mandate the deployment of a different

topology for this traffic, but should allow each company to deploy a topology that is appropriate to the individual company's infrastructure.

III. Numbers in Toll Free Access Codes Should Be Assigned on a First-Come, First-Served Basis

In recent years, the industry has witnessed a dramatic increase in the demand for toll free numbers. Whereas in past years, only businesses utilized toll free numbers for the convenience of their customers, today's marketplace includes residential customers. Businesses have always recognized the value of a toll free number both in generating new customers and providing ready access for its current customers. Advertisers and marketers have leveraged the "value" of toll free numbers with the creation of vanity numbers to enhance the recognition and accessibility of their clients.

This proceeding, however, is not intended to debate the merits of vanity numbers. Rather, it is about the need to manage scarce public numbering resources. Although the current 800 number shortage has temporarily exacerbated the situation, there is an important public policy interest in determining the "rules of the game" prior to opening the 888 code. If vanity numbers are presumed to be reserved in any new toll free code that is made available, new codes intended for expansion will be subject to premature exhaustion as companies seek to replicate their

existing vanity numbers. Allowing the reservation of vanity numbers does nothing to stimulate new services or additional traffic volumes, it simply spreads the same traffic over more toll free lines. To prevent such a misallocation of numbering resources, reservation of toll free numbers should be on a first-come, first-serve basis. To do otherwise, risks exhaustion in each new code prematurely.

The Commission itself has characterized its own interpretation of telephone numbers being a resource:

" . . . The advantages of widespread access to such a seamless network are considerable. These numbers are a public resource that is not the property of the carrier. Access to numbering resources is critical to entities desiring to participate in the telecommunications industry. Numbers are the means by which businesses and consumers gain access to, and reap the benefits of, the public switched telephone network. These benefits cannot be fully realized, however, unless numbering resources of the NANP (North American Numbering Plan) are administered in a fair and efficient manner that makes them available to all parties desiring to provide telecommunications services."³

This philosophy is certainly appropriate in this proceeding. The reservation of vanity numbers in the 888 code and subsequent toll free codes discriminates in favor of those who already have acquired an 800 vanity number and denies new entrepreneurs the right to "gain access to, and reap the benefits of, the public switched telephone network."⁴ The Commission is correct in

³ See NPRM, p. 25; Report and Order, Administration of the North American Numbering Plan, CC Docket No. 92-237, released July 13, 1995, p. 4.

⁴ Id.

stating from a public policy perspective that no property right should be attached to telephone numbers. Such a right not only wastes a valuable resource, but also discriminates against those parties that do not have 800 toll free numbers today.

Customers should not have the ability to duplicate toll free numbers ad infinitum as each new toll free code becomes available. Sufficient legal protections exist to protect trademarked advertising associated with toll free numbers. The assignment of toll free numbers on a first-come, first-served basis will alleviate many of these concerns and offer the Commission the most equitable means for assigning toll free numbers.

IV. An Industry Forum is Preferable to Increased Commission Control to Oversee RespOrgs

Increased accountability by RespOrgs in performing their toll free number assignment responsibilities is clearly needed. This should not be accomplished, however, by imposing burdensome Commission mandates and control. Rather, SNET proposes that an appropriate industry forum, such as the Industry Carriers Compatibility Forum, be tasked to develop guidelines for efficiently managing the number assignment process, and to insure that sufficient statistical data is available to insure RespOrgs are properly implementing their responsibilities.

V. Escrow Accounts Would Disadvantage Small Carriers

Comments are sought on the feasibility of requiring a one-time deposit into an escrow account for each toll free number held in reserved status.⁵ Requiring a one-time payment into an escrow account for each toll free number held in reserve would disadvantage small carriers and providers from actively participating in the toll free market and would negatively penalize RespOrgs that are, in fact, complying with industry guidelines. Requiring escrow accounts would have virtually no impact on large RespOrgs and service providers who clearly have the resources to fund such escrow accounts. It would, however, adversely effect small organizations that may not have sufficient funds to front the one-time payments. Should the Commission determine that escrow deposits are in the public interest, however, SNET proposes that the Commission exempt small participants from the deposit requirement on the basis that they do not have the ability to warehouse large volumes of toll free numbers.

Finally, the Commission should consider imposing sanctions against companies that knowingly reserve excessive toll free numbers. Sanctions can run the gamut from simply suspending an organization's access to additional toll free numbers until the

⁵ See NPRM, p. 12.

excess numbers have been validly assigned, to the imposition of fines, depending upon the seriousness of the violation.

VI. The Commission Should Not Impose Reduced Time Intervals to Eliminate Lag Time Until the Industry Has an Opportunity to Study Issues and Make Recommendations.

The Commission raised concerns about the amount of time between withdrawal of toll free numbers from the SMS database and conversion to working status.⁶ While the Commission's concerns are valid, the Commission should task the appropriate industry forum to propose a solution that considers market dynamics. There are many legitimate reasons why toll free numbers may be assigned and not working. For example, customers with seasonal businesses place their numbers into an inactive status during the "off" season and then reactivate it later on. The Commission should not adopt rules that prevent such a customer from retaining its toll free number.

Lag time is a transitory problem that has been exacerbated by the current shortage of toll free numbers. With the opening of the 888 code, lag time should not be a continuing problem. SNET recommends that the Commission not adopt reduced time intervals at this time, but rather defer the issue to the industry for resolution. Adopting time limitations without a

⁶ See NPRM, p. 13.

thorough investigation of the marketplace needs, risks harming customers who have legitimate needs for inactivating their toll free numbers.

VII. Personal Identification Numbers (PINs)
Should Be the Responsibility of the RespOrgs

Comments are being sought on the possible use of a PIN in conjunction with the use of some toll free numbers.⁷ PINs should be assigned by the RespOrg who has control of the master toll free number. With the introduction of PIN technology, there arises a situation where only one RespOrg can control the main toll free number. While this raises number portability concerns, on balance, the benefits of better toll free number utilization outweighs the potential number portability limitations. The Commission should encourage, but not require, the use of PIN technology, and should reward it by eliminating requirements that may be attached to non-PINed toll free numbers.

⁷ See NPRM, p. 16.

VIII. The Toll Free Reservation and Assignment Process
Should Be Modified to Allow a 60 Second Lockout
Period, Reasonable Reservation Limits, Not a
45 Day Advance Reservation Policy.

The Commission seeks comments regarding the current toll free reservation and assignment process.⁸ SNET supports the current first-come, first-served approach whereby the SMS database provides toll free numbers to a RespOrg for a period of 60 seconds, during which time a RespOrg can reserve the same number without having another RespOrg obtain and reserve the number. Of concern, however, are the huge industry cutovers where the system tends to lock up and the 60 second allotment period may pass without a carrier being able to reserve a number especially in a bottleneck situation. This "race to reserve" approach favors direct log-ons and mechanized interfaces to the detriment of small RespOrgs that use manual access methods. Reinstating the so-called 60 second lock out period would allow manual RespOrgs to compete with automated RespOrgs on a more equitable basis.

When new toll free codes are opened, SNET recommends that reasonable reservation limits be placed on all RespOrgs so that small companies have the ability to reserve numbers on an equal footing with large companies. One possible approach would be to limit number reservations for new codes to an average daily

⁸ See NPRM, p. 12.

consumption rate rather than a percent of total numbers in and working.

The ability to reserve toll free numbers 45 days in advance of general availability also favors larger RespOrgs by allowing them to reserve large quantities of numbers using their automated interfaces. SNET recommends that the 45 day advance reservation period not be adopted. Rather, the Commission should limit the quantity of numbers that can be reserved by any entity as discussed above.

IX. Implementation Plan for the Next Toll Free Code Beyond 888 Should Be a Non-Event

SNET supports the Commission's belief that the industry must improve its ability to identify when deployment of the next toll free code should begin.⁹ While it is not necessary to begin planning immediately after the previous toll free code is introduced, a reasonable trigger point for initiating planning is appropriate. SNET recommends that a threshold of one million numbers available serve as that trigger point. This simplified approach is both easy to monitor and should provide sufficient lead time for planning and deploying new codes in an orderly

⁹ See NPRM, p. 19.

fashion. There then should be no mass "cutover" date but rather a slow introduction of new NXXs released to the available number pool.

X. Right of First Refusal

Comments are being sought on whether current holders of 800 numbers should be permitted to exercise a right of first refusal in the proposed 888 number.¹⁰ Current holders of 800 numbers or vanity numbers should not be allowed to replicate their vanity number for new toll free codes and should not be given the right of first refusal. An approach favoring existing toll free users inherently disadvantages new users by preventing them from obtaining desirable numbers. Ultimately, such an approach prematurely exhausts toll free codes and inhibits legitimate alternative uses of toll free numbers.

XI. Toll Free Directory Assistance

SNET supports the Commission's proposal to include a provision in its order in this proceeding prohibiting Bellcore from assigning 888-555-1212 until after the Commission decides whether to grant SNET's petition proposing a regulatory structure to facilitate competition in the toll free call directory

¹⁰ See NPRM, p. 27.

assistance ("DA") market.¹¹ The Commission is presently considering that SNET Petition in DA 95-1062. Unless the Commission bars assignment of 888-555-1212 until after deciding whether to grant SNET's Petition, Bellcore probably would assign the number to AT&T. This is because AT&T wants to use that number to supplement its existing 800-555-1212 number in providing DA for toll free calls.

SNET supports the Commission's plan to prohibit assignment of 888-555-1212 until after the Commission acts on SNET's Petition since assigning the number to AT&T before the Commission acts on the SNET Petition will complicate development of competition in the toll free DA market. Consumers associate all telephone numbers ending in 555-1212 with directory assistance since nearly all long distance DA services are offered over numbers that end with these seven digits. Assigning 888-555-1212 to AT&T before the Commission decides whether to act on SNET's Petition would complicate anyone's ability to enter the toll free DA market since the new entrant would have to provide service over a number that consumers do not readily associate with DA service.

While Bellcore should not assign 888-555-1212 until after the Commission grants SNET's Petition, the Commission should not be under the illusion that assigning this number to someone other

¹¹ See NPRM, p. 30.

than AT&T, without granting SNET's Petition, is sufficient to facilitate competition in toll free DA. SNET showed in its petition in DA 95-1062 that competition cannot develop in this market unless the Commission grants SNET's Petition due to the unique manner in which toll free DA is financed.

It is worth noting here that the only policy argument AT&T has made in opposing SNET's Petition in DA 95-1062 is its ridiculous assertion that granting SNET's Petition is unnecessary because the toll free call DA market already is competitive. Of course, that absurd contention is flatly inconsistent with the Commission's contrary conclusion expressed on numerous occasions, most recently just one week ago in an order concluding the so-called AT&T non-dominance order. There the Commission held that AT&T continues to be a monopolist in this market, and that there are no substitutable services:

"With regard to 800 directory assistance service, AT&T has presented no evidence to cause us to change our view that AT&T retains the ability to control prices for this service offering"¹²

XII. Public Awareness

The Commission seeks comments on whether additional efforts, beyond the current educational initiatives, should be undertaken to assure that the public is fully informed about the

¹²¹² See Motion of AT&T Corp. to be Reclassified as Non-Dominant Carrier, FCC 95-427 at ¶103 (rel. Oct. 23, 1995). See also id. at ¶105.

introduction of new toll free dialing codes.¹³ The industry and each individual company are collectively responsible for educating consumers concerning the implementation of new toll free numbers. No Commission mandates are desirable or necessary in order to insure public awareness on this issue. Given the competitiveness of the toll free marketplace and the interest of all industry participants in achieving a smooth transition to the new 888 code, sufficient incentives exist to insure full public awareness.

XIII. Tariffing Issues

The Commission has concluded that 888 and subsequent codes should be treated like existing 800 services and that the existing Part 69 provisions for 800 service, requiring local exchange carriers (LECs) to establish a separate database sub-element would also cover 888 service. SNET agrees that no Part 69 waivers are required. SNET expects to revise the title and service description of its current interstate "800 Database Access Service" to include not only 888, but future 8XX code assignments. SNET does not plan to introduce new rate elements, and will simply apply existing database query rates as well as existing rates for vertical features, if applicable. Similar

¹³ See NPRM, p. 31.

minor text changes to Part 69 rules is also all that should be required.

The Commission also concludes that "the costs of providing 888 toll free service should be treated in accordance with the procedures [the FCC] established for 800 service and that the LECs should file their tariff revisions on not less than 45 days' notice."¹⁴ SNET plans to utilize its current 800 database query rate. SNET anticipates that this will allow appropriate and adequate recovery of SNET's costs associated with the implementation and provision of 888 as well as future 8XX codes. However, SNET believes it is premature to conclude that such costs be "treated in accordance with procedures established for 800 service" since the Commission has not yet concluded its investigation of the LECs' initial 800 database tariffs. SNET has no objection to a 45-day tariff notice period.

The Commission also seeks comment on whether it is reasonable for LECs to charge interim rates or make other provisions to deal with transition issues.¹⁵ SNET sees no requirement for an interim rate. As noted above, SNET views the provision of 888 and 800 toll free calling as the same service.

¹⁴ See NPRM, p. 34.

¹⁵ See NPRM, p. 34.

XIV. Conclusion

In summary, SNET recommends that the Commission should follow its own characterization in treating "telephone numbers as a public resource and not the property of a carrier," and that "numbers are the means by which businesses and consumers gain access to, and reap the benefits of, the public switched telephone network."¹⁶ Toll free numbers must be assigned on a first-come, first-served basis in order to allow for fair and equitable competition on a non-discriminatory basis. The Commission must continue to rely on its industry resources to provide the necessary guidance of the toll free marketplace, rather than rely on complex and burdensome federal control. Lastly, SNET supports the Commission's proposal to prohibit Bellcore from assigning 888-555-1212 until after a decision is made whether to grant SNET's Petition proposing a regulatory structure to facilitate competition in the toll free directory assistance market.

Respectfully submitted,

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¹⁶

Id.